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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/868,200	09/10/2001	Gunter Fuhr	A34368PCTUSA	7034

21003 7590 12/06/2002

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EXAMINER

GITOMER, RALPH J

ART UNIT	PAPER NUMBER
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1651

DATE MAILED: 12/06/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/868,200

Applicant(s)
Fuhr et al.

Examiner
Ralph Gitomer

Art Unit
1651



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Apr 15, 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 27-51 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 27-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☒ Interview Summary (PTO-413) Paper No(s). 7
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

The IDS received 9/25/01 and the IDS and amendment received 4/15/02 have been entered, and claims 1, 27-51 are currently pending in this application.

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The rejection made in the Office Action dated 11/9/01 over Ronfard under 35 USC 102(b) is maintained.

Applicant's arguments filed 4/15/02 have been fully considered but they are not persuasive.

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Applicants argue that the presently claimed cell traces are intended to be material derived from the cells observed as described in the present specification as originally filed. The cell traces of Ronfard are not from the cells but are exogenous.

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It is the examiner's position that the claims as originally presented stated ~~wherein~~ the cell traces consist of material residues separated from the cells ~~but~~ but this limitation has now been deleted from the claims as currently presented. The cells of Ronfard move adhesively over surface track regions of the substrate while producing cell traces.

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Applicants are reminded that the invention is the subject matter defined by the claims, and the limitations of the specification are not read into the claims where no express statement of that limitation is included in the claims, see *In re Priest*, 199 USPQ 11. To suggest the claims now read on material

deleted from the claims, irrespective of how such features may be described in the specification, borders on the frivolous.

5 The rejection of record of claims 1, 27-51 over the combination of Zeiter in view of Loken and further in view of Ronfard under 35 USC 103(a) is maintained.

Applicant's arguments filed 4/15/02 have been fully considered but they are not persuasive.

10 Applicants argue that the cited references do not teach cells traces that consist of cellular material.

See discussion above. Loken was cited to teach the analysis of fluids.

15 The rejection of record of claims 1 and 38 under 35 USC 103(a) over Zeiter is maintained.

Applicant's arguments filed 4/15/02 have been fully considered but they are not persuasive.

20 Applicants argue that the cited references do not teach cells traces that consist of cellular material.

See discussion above.

25 The rejection of record of claims 1, 27, 32, 42-47 and 50 under 35 USC 103(a) over the combination of Ronfard in view of the present application is maintained.

Applicant's arguments filed 4/15/02 have been fully considered but they are not persuasive.

Applicants argue that the cited references do not teach cell traces that consist of cellular material.

5 See discussion above.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

10 A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire
15 on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Serial No. 09/868,200
Art Unit 1651

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ralph Gitomer whose telephone number is (703) 308-0732. The examiner can normally be reached on Tuesday-Friday from 8:00 am - 5:00 pm.

5 The examiner can also be reached on alternate Mondays. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn can be reached on (703) 308-4743. The fax phone number for this Art Unit is (703) 308-4556. Any inquiry of a general nature or relating to the status

10 of this application should be directed to the Group receptionist whose telephone number is (703) 308-1235. For 24 hour access to patent application information 7 days per week, or for filing applications electronically, please visit our website at www.uspto.gov and click on the button Patent Electronic Business

15 Center for more information.



Ralph Gitomer
Primary Examiner
Group 1651

RALPH GITOMER
PRIMARY EXAMINER
GROUP 1200